

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	§	
Srinivas Aluri et al.	§	Confirmation No.: 6160
	§	
Application No.: 10/063,863	§	Group Art Unit: 3737
	§	
Filed: May 20, 2002	§	Examiner: Roy, Baisakhi
	§	
For: TEXT-BASED GENERIC	§	Atty. Docket: GEMS:0194/YOD/SWA/EUB
SCRIPT PROCESSING FOR	§	124566
DYNAMIC CONFIGURATION	§	
OF DISTRIBUTED SYSTEMS	§	

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May 4, 2009	/Lee Eubanks/
Date	L. Lee Eubanks IV

PRE-APPEAL BRIEF REQUEST FOR REVIEW

In response to the Final Office Action mailed on February 2, 2009, Appellants respectfully submit this Pre-Appeal Brief Request for Review. This Request is being filed concurrently with a Notice of Appeal of the Examiner's improper rejection of claims 1-9, 11-22, and 24-65 of the present application. In the Final Office Action, the Examiner rejected a majority of the claims, including all of the independent claims (namely, claims 1, 22, 31, 40, 44, and 58), under 35 U.S.C. § 103(a) as unpatentable over the Flynn et al. reference (U.S. Pat. App. Pub. No. 2003/0191509). Because the Examiner has impermissibly generalized certain recitations of the present claims, failed to consider other claim recitations, and has generally made numerous assertions unsupported by the Flynn et al. reference, Appellants submit that the Examiner's rejections of the instant claims are erroneous. Accordingly, Appellants respectfully request review of this application and the pending rejections by the panel.

As a preliminary matter, and as *repeatedly* noted in Appellants' previous communications, *each claim* is independently patentable and must be addressed individually to properly account for the unique aspects recited therein. In the Office Action, the Examiner provided a blanket rejection (in a single paragraph) that summarily grouped claims 1, 7-9, 11-31, 33-44, and 46-65 together and provided an incomplete list of various subject matter recited by only some of these claims and that does not refer to any of the claims by number. *See* Final Office Action mailed February 2, 2009, pp. 4-5. Upon review, it appears that the present Office Action fails to provide any rationale or support for the rejection of an overwhelming majority of the dependent claims of the application (including, for example, claims 7-9, 11-13, 16-21, 24-30, 33-39, 41-43, and so forth), and fails to adequately address features recited in various independent claims. Because the Examiner did not specifically or substantively address the subject matter of most of the claims of the present application, Appellants respectfully assert that the wholesale rejection of the pending claims is legally deficient in view of 37 C.F.R. § 1.104, and that the finality of the Office Action is improper.

Before turning to the Examiner's rejections, it is believed that a brief overview of the present application may be of use to the panel. For explanatory purposes, it is noted that the present application is generally directed to a technique for dynamically configuring medical diagnostic systems, such as medical imaging systems. *See, e.g.*, Application, para. [0001]. By way of example, in one embodiment, multi-component configuration data may be distributed to components of a medical system, which may be used to "set up" the components for a particular medical diagnostic procedure. *See, e.g., id.*, para. [0017]. More specifically, each of the components may be configured to extract its own component-specific portion of the data from the distributed multi-component data, and may then configure itself based on its respective extracted portion of the data. *See, e.g., id.*

Accordingly, independent claim 1 recites a medical diagnostic system including "a plurality of medical diagnostic components communicatively coupled via communications circuitry"; "a configuration data distributor of multi-component configuration data *to the plurality*

of medical diagnostic components” (emphasis added); and “a component-specific data extractor of the multi-component configuration data, wherein *at least one of the medical diagnostic components ... includes the component-specific data extractor*” (emphasis added). Independent claim 22 recites a medical diagnostic component including “a configuration data broadcaster of the multi-component configuration data *to the plurality of communicatively coupled medical diagnostic components*” (emphasis added). Independent claim 31 recites a medical diagnostic component including “a configuration data receiver for a distributable multi-component configuration file comprising extractable *component-specific application data for a plurality of medical diagnostic components*” (emphasis added). Independent claim 40 recites “means for distributing multi-component behavioral data *to a plurality of medical diagnostic components*” (emphasis added). Independent claim 44 recites “extracting the extractable component-specific configuration data from the distributed multi-component configuration data *at each component of the plurality of medical diagnostic components*” (emphasis added). Independent claim 58 recites “a broadcasting multi-component configuration system adapted to provide a multi-component configuration file having extractable component-specific configuration data ... *to the plurality of medical diagnostic components*” (emphasis added).

In stark contrast, the Flynn et al. reference is generally directed to a system that allows users to select and purchase a medical device online. *See, e.g.*, Flynn et al., Abstract, FIGS. 1, 3, and 7. The system includes a database of potential components of a medical device, and allows a user to custom-build a virtual medical device online by choosing which components and options the user desires. *See id.* at para. [0023] (“The system allows a user to input data to select device components and options for each component, and configures an electronic representation of a custom medical device based on the user-selected components and options.”). Appellants note that this is similar to the manner in which a consumer can virtually “build” their own cars or computers online by selecting options on various websites of well-known car manufacturers and computer companies.

In cursory rejecting claims 1, 7-9, 11-31, 33-44, and 46-65 as obvious in view of the Flynn et al. reference, the Examiner merely stated:

Flynn et al. disclose a system and method for configuring a medical device by generating a medical device database having information about a plurality of medical device components, therefore a dynamic configuration system and a configuration option available for each component therefore a component-specific data distributor and extractor [0023]. The system allows user to input data to select device components, processing the extractable component-specific configuration data extracted at each component, and configuring an electronic representation of a custom medical device based on the user-selected components and options. The system may also include a database of images corresponding to each medical device component [0012]. Flynn et al. teach said medical device database to contain information about medical device components and information about configuration options for each component, where the database includes a set of configuration rules determining the interdependencies of the components and options available for each component [0025].

Final Office Action mailed February 2, 2009, pp. 4-5.

Even assuming, for the sake of argument, that the user selection from various options during an online virtual custom-building session could be considered to be “multi-component configuration data” or “multi-component behavioral data,” it is readily apparent that the Flynn et al. reference merely discloses sending data *to an online purchasing tool*. It does not disclose, teach, or hint at broadcasting or distributing such data *to medical diagnostic components*, or *medical diagnostic components* able to extract specific portions of such data (at the medical diagnostic component), as generally recited by various claims of the present application. Indeed, as the Flynn et al. medical components generally referred to by the Examiner are merely virtual components, it is unclear as to why the Examiner believes that these virtual components simulated on a user interface provided by the online purchasing tool are somehow themselves receiving data and then configuring themselves based on such data, or why the Examiner believes that these virtual components generated from a database are somehow communicatively coupled via communications circuitry.

In short, other than merely asserting that the online tool of Flynn can be considered a configuration system and that a user can select certain option using this tool (and then alleging that the reference must therefore disclose numerous other aspects of the instant claims), the Office Action fails to provide even a *scintilla* of explanation of how this reference could possibly be interpreted by one skilled in the art to contain teachings analogous to the recitations of the instant claims. For at least these reasons, the Office Action has not established a *prima facie* case of obviousness with respect to independent claims 1, 22, 31, 40, 44, and 58, or their respective dependent claims, and the Examiner has erred in maintaining this rejection.

Finally, Appellants note that each of claims 2-6, 32, and 45 depend from one of independent claims 1, 31, or 44. As discussed above, the Flynn et al. reference fails to disclose each element of these independent claims. Further, the Schmitt reference does nothing to obviate the deficiencies of the Flynn et al. reference noted above. As a result, dependent claims 2-6, 32, and 45 are allowable at least on the basis of their dependency from a respective allowable independent claim, as well as for the subject matter separately recited in these dependent claims.

For at least these reasons, Appellants respectfully request withdrawal of the rejections of claims 1-9, 11-22, and 24-65 under 35 U.S.C. § 103. If the panel believes that a telephonic interview will help resolve any remaining issues and help advance prosecution with respect to the present application, the panel is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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